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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/008,243 | 11/07/2001 | Kevin Kelly Covey | 1023-015US01 | 8259 |
| 28863 | 7590 | 12/23/2004 | EXAMINER | |
| SHUMAKER & SIEFFERT, P. A. 8425 SEASONS PARKWAY SUITE 105 ST. PAUL, MN 55125 | | | MANUEL, GEORGE C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3762 | |

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/008,243 | Applicant(s) COVEY ET AL. | |
| | Examiner George Manuel | Art Unit 3762 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1 and 7-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Costanzo '818.

The examiner is interpreting the fastener 34A to comprise an anchor and fastener 34 to comprise a mating member or a notch and the distal end of flap 31, beyond fastener 34 to comprise a handle. Further, lead wires comprise conductors 19 and 20 and the device receptacle comprises snap contacts 35 and 36. Contacts 32 and 33 comprise a lip that engages the pouch, means 25.

Claims 1, 7-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Belt et al '078.

Belt et al discloses an anchor comprising snap-fastener member 52 and a lip comprising flap panel 50.

Applicant's remark, filed 9/10/04 that present claim 1 did not change the scope of the claimed subject matter of previous claim 6, but simply introduced the dependent

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features of claim 6 into independent claim 1, does not appear to be supported by the claim language. Present claim 1 contains "a" limitation, a pouch comprising an anchor that fastens the pouch to the medical device. The examiner interpreted original claim 1 to comprise a "first" limitation, the pouch fastened to the medical device, a "first" fastening means. Canceled claim 6 comprised a "second" limitation, the pouch further comprising an anchor that fastens the pouch to the medical device. Since Belt et al discloses only one means, the snap-fastener member 52 for fastening the pouch to the medical device, present claim 1 is now rejectable.

Claims 1-3, 5, 10, 15-20, 28-30, 53 and 55-59 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Janae et al '051.

Regarding applicants' remarks filed 9/10/04, Janae et al clearly show something that serves to hold an object firmly (an anchor), i.e., the polypropylene- or polyethylene-coated metal film for side 42.

Claims 17, 18, 28-31, 34, 53, 55 and 56 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Walters et al '051.

Walters et al clearly show a part (end 14) that is designed especially to grasped by a hand. It appears reasonable to interpret a part that is designed to be held or operated with the hand to comprise a handle.

Claim 35 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nova et al '885.

Electrode 22 shows a human figure oriented on a defibrillation electrode at an angle. See Fig.3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 26-28, 33, 35-38, 40-43, 45-53 and 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters et al '640 in view of Bishay et al '598.

Walters et al show all of the claimed features except for instructive pictures on the electrodes to illustrate placement of the electrodes on the patient.

Bishay et al teach using images on electrodes to assist an operator in determining placement of electrodes on a patient. One of ordinary skill in the art would have found it an obvious modification of the electrode imaging to image the packaging material instead of, or in addition to, the electrode imaging because the imaging is disclosed as being visible through the packaging material in Fig. 1. Fig. 1 shows a human figure oriented on the defibrillation electrode at an angle (with respect to the figure) so that when the defibrillation electrode is applied to a patient with the head of the patient and the head of the human figure in the same direction, the defibrillation electrode will be oriented at the angle.

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One of ordinary skill in the art would have found it obvious to combine the teaching of Bishay et al with the electrodes of Walters et al for illustrating placement of the electrodes because the teaching of Bishay et al applies to defibrillation electrodes which are the same type of electrodes disclosed in Walters et al and because time is critical for fast electrode placement and a visual display on the electrode minimizes the time needed for an operator to place the electrodes on a patient.

Regarding claims 45, 49 and 50, one of ordinary skill in the art would have found it obvious to use distinct coloring because Bishay et al teach a combination of color usage and bolding may be employed to enhance the readability of the images. It follows that this inherently contrasts the images to the liner.

Claims 23, 24, 25, 28, 32, 35, 39, 41, 43, 44, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters et al '640 in view of Bishay et al '598 and further in view of Nova et al '070.

Claims 28, 35, 41, 43 and 53 are rejected as being unpatentable over Walters et al in view of Bishay et al as stated above.

One of ordinary skill in the art would have further found it obvious to provide instructions for opening the package disclosed in Walters et al in view of the teaching in Nova et al that an additional visual instruction may be displayed for electrode package opening action.

The teaching of Nova et al applies to a similar package of defibrillator electrodes and therefore applies to the package arrangement of Walters et al in view of Bishay et al.

Claims 17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al '157 in view of Jacobsson et al '465.

Freeman et al show all of the claimed features except for a ring shaped handle.

Jacobsson et al teach it is well known to us a ring shaped handle to assist opening a package. See col. 2, line 29-32, "packing containers are opened in that the tearing strip with the help of a readily grippable pull-tab or pull-ring is pulled upwards and backwards".

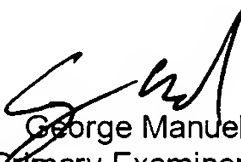
One of ordinary skill in the art would have found it obvious to modify the tab 40 to have a ring shape because as Jacobsson et al show, it is well known in the art of packaging materials to use a ring shape so a person opening the package can insert a finger or use the index finger and thumb to grasp the ring shaped tab to assist in opening.

In the rejections above, rejected dependent claims above also comprise rejected independent claims from which they depend.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.


George Manuel
Primary Examiner
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12/17/04